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Supreme Court, U.S.
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No. _____

IN THE

Supreme Court of the United States

October Term, 2008

PETER PAUL MITRANO,

Petitioner,

versus

DISTRICT OF COLUMBIA COURT OF APPEALS,

Respondent.

On Petition for a Writ of Certiorari to the
District of Columbia Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Peter Paul Mitrano
Pro se
4912 Oakcrest Drive
Fairfax, Virginia 22030

Petitioner

January 12, 2009

Questions Presented for Review

1. Did the District of Columbia Court of Appeals violate petitioner's right to due process in failing to disbar District of Columbia Bar Counsel and in disbarring petitioner?

2. Did Judge Farrell have the authority to participate in the subject decision?

3. Do the actions and inactions of the District of Columbia related to this matter justify a revolution?

Parties to the Proceeding

The caption of this case in this Supreme Court of the United States contains the name of the petitioner. Petitioner is not a parent, subsidiary or affiliate of any company. The District of Columbia Court of Appeals appears to include Chief Judge Eric T. Washington, Associate Judge Frank E. Schwelb, Associate Judge Michael W. Farrell (Retired), Associate Judge Vanessa Ruiz, Associate Judge Inez Smith Reid, Associate Judge Stephen H. Glickman, Associate Judge Noel Anketell, Associate Judge John R. Fisher, Senior Judge Theodore R. Newman, Jr., Senior Judge William C. Pryor, Senior Judge John W. Kern, III, Senior Judge James A. Belson, Senior Judge Warren R. King, Senior Judge John M. Ferren, Senior Judge Frank Q. Nebeker, Senior Judge John M. Steadman, Senior Judge Annice M. Wagner and Senior Judge John A. Terry. There also appears to be additional judges not stated herein that are part of the District of Columbia Court of Appeals.

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October Term, 2008

PETER PAUL MITRANO,

Petitioner,

versus

DISTRICT OF COLUMBIA COURT OF APPEALS,

Respondent.

Petitioner respectfully petitions for a writ of certiorari to review the judgment of the District of Columbia Court of Appeals.

Opinion Below

The Decision of the District of Columbia Court of Appeals from which petitioner seeks certiorari is published as the case of *In re Mitrano*, 952 A.2d 901 (D.C. 2008). The subsequent Order issued by the District of Columbia Court of Appeals denying petitioner's motion for reconsideration appears in the Appendix hereto at A-1. Mitrano's opening brief filed before the District of Columbia Court of Appeals appears at 2007 WL 5766117. Mitrano's reply brief filed before the District of Columbia Court of Appeals appears at 2007 WL 5766116.

Jurisdiction

The decision in the subject case of *In re Mitrano*, 952 A.2d 901 (D.C. 2008) was entered by the District of Columbia Court of Appeals on July 17, 2008. A timely Revised Petition for Division Rehearing and Petition for Rehearing En Banc was filed and an Order denying the petition for rehearing was entered by the District of Columbia Court of Appeals on October 14, 2008. (A-1) This petition for writ of certiorari was filed within ninety days of said date of October 14, 2008. This Court's jurisdiction is invoked under 28 U.S.C., § 1257(a); but, see *Whalen* v. *United States*, 445 U.S. 684, 687-688 (1980) wherein this Court stated:

> "But it is clear that the approach described in the *Pernell* opinion is a matter of judicial policy, not a matter of judicial power. Acts of Congress affecting only the District, like other federal laws, certainly come within this Court's Art. III jurisdiction, and thus we are not prevented from reviewing the decisions of the District of Columbia Court of Appeals interpreting those Acts in the same jurisdictional sense that we are barred from reviewing a state court's interpretation of a state statute. *Ibid.* Cf. *Mullaney* v. *Wilbur*, 421 U.S. 684, 691; *Scripto, Inc.* v. *Carson*, 362 U.S. 207, 210; *Murdock* v. *Memphis*, 20 Wall. 590, 632-633."

Statement of the Case

In one sentence, petitioner Mitrano is not guilty of any disciplinary violations because petitioner Mitrano only accepted a reasonable legal fee that was paid by check by an officer of his corporate client even though the amount of the payment exceeded the terms of the original fee agreement entered into in 1983. The underlying proceeding is a legal lynching being conducted within the United States and arises from District of Columbia Bar Counsel falsely accusing attorney petitioner Mitrano of forging the signature of Mr. Michael J. Byorick on the back of a check. Note the following paragraph numbered 14 in the "Specification of Charges" signed under oath by Assistant Bar Counsel Traci M. Tait and signed (but not under oath) by Bar Counsel Wallace E. Shipp, Jr.:

> "14. Respondent [Peter Paul Mitrano] endorsed the check as follows:
> 'Pay to the order to
> Peter Mitrano
> Partial Legal fee [illegible] Expenses
> Dano Recovery Inc
> Michael J. Byorick, Pres"'

Bar Counsel's forgery case was destroyed when petitioner Mitrano presented the testimony of a certified forensic document examiner. Indeed, the District of Columbia Court of Appeals found the false charge of forgery should not have been made against petitioner Mitrano and stated:

> "'[C]are [should be] exercised before the very serious charge of forgery [is] leveled against a member of the Bar,' and that Bar Counsel would have been better-advised to investigate the signature further – perhaps through expert handwriting of its own[4] – before asserting that Mitrano had falsified Byorick's endorsement on the check . . . ."
>
> . . .
>
> "[4] *Cf. S.A. Auto Lube, Inc. v. Jiffy Lube International, Inc.*, 842 F.2d 946, 949 (7th Cir. 1988) (citing with approval *Calloway v. Marvel Entertainment Group*, 111 F.R.D. 637, 646-47 (S.D.N.Y. 1986) (failure to consult document expert when alleging forgery unreasonable for purposes of Rule 11 violation))."

952 A.2d at 906-907.

After the commencement of the evidentiary hearing, District of Columbia Bar Counsel without due process and without any notice in the Specification of Charges, then changed her case without any prior notice, over numerous objections and requests for continuances and additional time by petitioner Mitrano, to the trumped-up allegation that Mr. Michael J. Byorick, the executive vice president of Dano Resource Recovery, Inc. (Mitrano's client who did not file a bar complaint) was not

in essence authorized to indorse said check. Dano Resource Recovery, Inc. was a corporation incorporated under the laws of Delaware. Respondent exhibit numbered 41 [Mitrano who is now the petitioner was respondent in the lower court; hence, the reference to respondent exhibit] is a public document that was on file at the office of the Secretary of State of the State of Delaware clearly stating "**Michael J. Byorick, Exec. Vice Pres.**" (Bold emphasis added.) Thus, the corporate status of Dano Resource Recovery, Inc. and whether Mr. Michael J. Byorick was stated to be the executive vice president is a matter of public record. Furthermore, even though under Delaware law the issue of whether or not Mr. Michael J. Byorick was the executive vice president of Dano Resource Recovery, Inc. should not have been subject to collateral attack in the disciplinary proceedings in the District of Columbia because the same can only be determined in quo warranto proceedings, the District of Columbia Court of Appeals ignored the law. Also Note under Rule 11 (of the Federal Rules of Civil Procedure) standards, Bar Counsel would be liable for sanctions for presenting false evidence because the public documentary evidence (said exhibit 41) was on file with the Secretary of State in Delaware.

With all due respect to the District of Columbia Court of Appeals, the decision dated July 17, 2008 is a study of contradictions. Note at 952 A.2d at 905 of the decision of the District of Columbia Court of Appeals states: "We adopt as our own the Board's Report, appended

hereto, and supplement it only with the following brief analysis". The District of Columbia Court of Appeals' admittedly "brief analysis" clearly contradicts the underlying District of Columbia "Board's Report" on some of the major issues in this matter. The District of Columbia Court of Appeals states in part that:

> ". . . Mitrano argues that he could not have wrongly taken – either by theft or misappropriation – funds of these 'others' without clear and convincing evidence that they owned the check proceeds or had a 'just claim' to them. *See In re Bailey*, 883 A.2d 106, 116-17 (D.C. 2005) (distinguishing claims of a client from 'third party claims'). But, regardless of the claim that others such as Williams Industries had to the money — whether by de facto ownership of Dano or 'creditor' **status that remained unproven— the record amply confirms that Dano itself owned the proceeds**.[3] . . ." (Bold emphasis added.)
>
> [3] . . . The disbursed **funds thus unequivocally belonged to Dano**, less any funds Mitrano had rightfully earned." (Bold emphasis added.)

952 A.2d at 906.

In said footnote numbered 3, the District of Columbia Court of Appeals clearly stated that: "The disbursed **funds thus unequivocally belonged to Dano**". (Bold emphasis added.) In direct contradiction thereto, the District of Columbia Board's Report which was made a part of the District of Columbia Court of Appeals, states in part that:

> ". . . Respondent did not address the contention contained in Mr. Williams' letter that Williams Industries was entitled to a portion of the proceeds of any check issued by the District of Columbia . . . ." (952 A.2d at 913)
>
> ". . . Williams Industries provided all of the funds for the litigation with the District with the understanding that the first proceeds of any recovery, after any legal fees, would be applied to the company's advances . . . ." (952 A.2d at 914)
>
> ". . . Williams Industries, and others had a sufficient interest in the proceeds of the check to preclude Respondent's unilateral action to cash the check and retain the proceeds . . . ." (952 A.2d at 916)
>
> ". . . Williams Industries would be reimbursed any monies advanced towards the litigation . . . ." (952 A.2d at 917)

". . . Williams Enterprises, which was 100% owned by Williams Industries, was one of the many subcontractors on the job that was still owed money and had filed a monetary claim against Dano . . . ." (952 A.2d at 917)

". . . others had claims to some of the proceeds from the check . . . ." (952 A.2d at 917)

"Mr. Jones . . . also had an interest in a portion of any funds recovered on behalf of Dano . . . ." (952 A.2d at 917)

". . . someone else and another company was entitled to at least some portion, if not most, of the proceeds . . . ." (952 A.2d at 920)

". . . quite clear that others were asserting an interest in the check and that they, rather than another individual such as Mr. Byorick, had the right to control disposition of at least a portion of the check's proceeds . . . ." (952 A.2d at 921)

". . . Respondent knew . . . that others had an interest in the proceeds of the check . . . ." (952 A.2d at 923)

". . . Respondent knew that . . . William Industries Inc. would be reimbursed monies advanced . . . ." (952 A.2d at 923)

". . . Williams Industries, Inc. (as a party with an interest in the check) . . . ." (952 A.2d at 924)

". . . He refused to disclose to parties with an interest in the check the fact that he had received the check . . . ." (952 A.2d at 924)

". . . He did not deliver any portion of the funds to . . . any other person with an interest in the proceeds . . . ." (952 A.2d at 925)

". . . Respondent breached his fiduciary obligation – to . . . third parties with an interest in the funds . . . ." (952 A.2d at 926)

". . . Respondent did not promptly notify any . . . other party with an interest in the funds . . . ." (952 A.2d at 926)

". . . Respondent clearly did not deliver to . . . any third party entitled to receive the funds or a portion thereof, any portion of the funds . . . ." (952 A.2d at 926)

". . . we have previously determined that others claimed (and had) an interest in the proceeds of that check" (952 A.2d at 926)

". . . that he has made restitution to . . . Mr. Williams, and Williams Industries of the proceeds . . . ." (952 A.2d at 928)

If as the District of Columbia Court of Appeals stated on 952 A.2d at 906, "[t]he disbursed funds thus unequivocally belonged to Dano", and that with reference to "others" for which their "status . . . remained unproven", then contrary to the above-quoted language in the adopted District of Columbia Board's Report, said "others" did not have an interest in the funds. It is important to consider the contradictions quoted above from the adopted District of Columbia Board's Report with the decision by the District of Columbia Court of Appeals that the funds did not belong to parties other than Dano Resource Recovery, Inc. and its attorney. Note the District of Columbia Court of Appeals stated in the case of *In re Bailey*, 883 A.2d 106, 112, 116-117 (D.C. 2005) an attorney only has to recognize a "just claim". Petitioner Mitrano is not a thief because others claimed (a "status that remained unproven") they had an interest in the money the District of Columbia Court of Appeals ruled belong to Dano Resource Recovery, Inc. While the District of Columbia Court of Appeals does not agree with the above-quoted language of the District of Columbia Board's Report that others (other than Dano Resource Recovery, Inc. and its attorney) had an interest in the funds, the District of Columbia Court of Appeals states at 952 A.2d at 905-906:

> ". . . The Committee's Report is replete with findings, for example, that Mitrano '*knew* . . . that others had an interest in the proceeds of the check'

> (emphasis added). The Board's conclusion that he 'wrongfully took from others' . . . is an unequivocal determination that he did not believe in good faith — genuinely or honestly—that he was entitled to all of the funds." (Footnote omitted.)

Thus, with all due respect to the District of Columbia Court of Appeals, it is inconceivable that the District of Columbia Court of Appeals would issue a decision stating Mitrano "wrongfully took from others" and that "Mitrano knew . . . that others had an interest in the proceeds" and then state in direct contradiction the money did not belong to others—it belong to Dano Resource Recovery, Inc. In other words, in one paragraph at 952 A.2d at 905-906, the District of Columbia Court of Appeals relies upon language to disbar Peter Paul Mitrano utilized by the District of Columbia Board and in the next paragraph at 952 A.2d at 906, the District of Columbia Court of Appeals rules the opposite of the very same language stating that "the record amply confirms that Dano itself owned the proceeds" and also that "[t]he disbursed funds thus unequivocally belonged to Dano". With all due respect, the District of Columbia Court of Appeals cannot have it both ways, Peter Paul Mitrano should not suffer the statement that "[t]he Board's conclusion that he 'wrongfully took from others . . .' is an unequivocal determination" and the contrary statement that "[t]he disbursed funds thus unequivocally

belonged to Dano". If the status of others "remained unproven", Mitrano was not on notice that the others were entitled to a portion of the subject check. Again, just because others claim an interest in money does not mean the others are entitled to the money. Once the District of Columbia Court of Appeals depleted the grounds that Mitrano took the money from others from the recommendation of the District of Columbia Board Report, a premise upon which the District of Columbia Board Report primarily relies, the judicial credibility of the District of Columbia Board Report is weaken.

Moreover, the District of Columbia Court of Appeals' newly proposed conclusory declaration at 952 A.2d at 906, footnote numbered 2 that "there was abundant proof that Mitrano did not believe Byorick was authorized to sign over the whole of the proceeds to him as legal fees" is simply incorrect. Just because Dano Resource Recovery, Inc. owed money to other parties does not mean that "Byorick was" NOT "authorized to sign over the whole of the proceeds to" Peter Paul Mitrano "as legal fees".

As the instant matter now stands, petitioner Peter Paul Mitrano license to practice law has been taken away by District of Columbia Court of Appeals by and through a proceeding where the District of Columbia Court of Appeals apparently did not even consider the numerous exceptions Mitrano filed objecting to the recommendation of the Board that was made a part of the instant decision.

Reasons for Granting the Writ

1. Did the District of Columbia Court of Appeals violate petitioner's right to due process in failing to disbar District of Columbia Bar Counsel and in disbarring petitioner?

Despite the finding of the District of Columbia Court of Appeals that Bar Counsel should not have falsely accused petitioner of forgery, the District of Columbia Court of Appeals failed to take any action against Bar Counsel. Petitioner filed a complaint against Bar Counsel because of the false accusation of forgery. Note that Bar Counsel Tait falsely stated in the Verification in the Specification of Charges that Mitrano in essence committed forgery when Mitrano did not commit forgery and when Bar Counsel had absolutely no evidence that Mitrano committed forgery. See the *Matter of Nace*, 490 A.2d 1120, 1124 (D.C. 1985) ("if Bar Counsel were convicted of a crime involving moral turpitude . . . his permanent disbarment would be mandated); *In re Morrell*, 684 A.2d 361, 367 (D.C. 1996) ("It would serve no purpose to impose an additional requirement that Bar Counsel obtain . . . a series of affidavits"); and, District of Columbia Board Rule 16.8(e) (proscribing that the oath by Bar Counsel means "that the contents are true as stated, except as to matters and things, if any, stated on information and belief"). Also see *Kalina* v. *Fletcher*, 522 U.S. 118, 130-131 (1997) (discussing difference between appearing as a lawyer and as a witness).

In *S.A. Auto Lube, Inc.* v. *Jiffy Lube Intern., Inc.*, 842 F.2d 946, 949 (7th Cir. 1988) cited by the District of Columbia Court of Appeals on 952 A.2d 907, in said footnote number 4, the entire paragraph from which the District of Columbia Court of Appeals quoted from in said footnote number 4 discusses the failure on counsel to check the corporate records before making a statement as to the status of a corporation and reads as follows:

> "Further, counsel did not need to rely on either his associate or JL-Illinois' general counsel for the required information. The information was readily available. A corporation's state of incorporation is a matter of public record, and is available either through the Secretary of State or from the corporation's own books. Counsel could have pursued at least one of these simple, readily available and authoritative avenues of inquiry. See *Nassau-Suffolk Ice Cream v. Integrated Resources, Inc.*, 114 F.R.D. 684, 689 (S.D.N.Y.1987) ('When the attorney can get the information necessary to certify the validity of the claim in public fashion and need not rely on the client, he must do so.'). See also *Calloway v. Marvel Entertainment Group*, 111 F.R.D. 637, 646-47 (S.D.N.Y.1986) (failure to consult document expert when alleging forgery was unreasonable)."

In the instant case, contrary to the clear above-quoted language, Bar Counsel made false allegations contrary to the public records of Dano Resource Recovery, Inc. and despite petitioner Mitrano presenting the corporate record showing that Mr. Byorick was the executive vice president of Dano Resource Recovery, Inc. (after the abrupt closing of the hearing on June 8, 2006 but within the seven day window allow by the District of Columbia Board's Rules and the Hearing Committee). See respondent exhibit numbered 41 [Mitrano who is now the petitioner was respondent in the lower court; hence, the reference to respondent exhibit] is a public document that was filed at the Secretary of State of the State of Delaware on October 7, 1985 clearly stating "**Michael J. Byorick, Exec. Vice Pres.**" (Bold emphasis added.) Thus, instead of the District of Columbia Court of Appeals taking action against Bar Counsel for presenting false evidence, that is, that Mr. Byorick was not the executive vice president of Dano Resource Recovery, Inc., the District of Columbia Court of Appeals adopted said false evidence and disbarred petitioner. See *Charpentier* v. *R. & R. Resort, Inc.*, 2002 WA 930, ¶ 31, 112 Wash.App. 1017, 2002 WL 1316232 *4 (2002) ("neglect is charged to the party's lawyer, who is responsible for researching and identifying . . . with verifying information that is available as a matter of public record"); and *Ali* v. *Mid-Atlantic Settlement Services, Inc.*, 233 F.R.D. 32, 39 (D.C. 2006) wherein the court stated:

> "Counsel may also be sanctioned for failure to conduct a reasonable inquiry of his client's factual contentions. Fed.R.Civ.P. 11(b)(3)(b)(4), (c). The rule requires counsel to do more than simply rest upon a client's evasive and incomplete statements of fact. A reasonable inquiry would provide counsel with either supporting evidence or a reason to decline to repeat a client's assertion . . . ."

Also see *Temple* v. *WISAP USA in Texas*, 152 F.R.D. 591, 597 (Neb. 1993) ("'[A] reasonable attorney . . . would have performed some investigation, two or three telephone calls, to verify the defendant's corporate status.'"); *Televideo Systems, Inc.* v. *Mayer*, 139 F.R.D. 42, 47 (N.Y. 1991) ("The attorney must ask if the client's knowledge is direct or hearsay"); *Harris* v. *Marsh*, 679 F.Supp. 1204, 1386 (N.C. 1987), aff'd, 914 F.2d 525 (4th Cir. 1990), cert. denied, 499 U.S. 959 (1991) ("When an attorney can get information necessary to certify the validity of a claim in public fashion and need not rely on the client, he must do so"); and, *S.A. Auto Lube, Inc.* v. *Jiffy Lube Intern., Inc.*, 131 F.R.D. 547, 549 (Ill. 1990) wherein the Court stated in part that:

> ". . . [T]he court of appeals emphasized that counsel for JLI should have verified the corporate citizenship of Jiffy Lube of Illinois by checking either the records of the Illinois Secretary of State or the corporation's own books. *Id.* at 949.

> Since counsel for JLI merely relied on the representations of two attorneys, rather than checking public records, the court concluded that counsel had failed to make a reasonable inquiry into the facts of the case. *Id.*"

Also note the public records doctrine. See *Chambers* v. *NASCO, Inc.*, 501 U.S. 32, 39 (1991) ("the only defense presented by Chambers was the Public Records Doctrine"); *Village of Evanston* v. *Gunn*, 99 U.S. 660, 666 (1878) (the records "are, as we have seen, of a public character, kept for public purposes, and so immediately before the eyes . . . They come, therefore, within the rule which admits in evidence 'official registers or records kept by persons in public office'"); *Grynberg* v. *City of Northglenn*, 739 P.2d 230, 238 (1987) ("the application of the public records doctrine"); *Porter* v. *Wright*, 69 F.Supp. 46, 47 (Or. 1946) ("'public Records' or 'quasi-Public Records' doctrine"); *Application of House*, 144 F.Supp. 95, 103 (Cal. 1956) ("not within the public records doctrine"); *In re Buck*, 219 B.R. 996, 1000 (Tenn. 1998) ("Under this public records doctrine"); *Bannum, Inc.* v. *United States*, 59 Fed.Cl. 241, 245 (2003) ("public-records doctrines may provide a substitute"); *In re Century Offshore Management Corp.*, 119 F.3d 409, 413 (6th Cir. 1997) ("The public records doctrine"); *State ex rel. WHIO-TV-7* v. *Lowe*, 77 Ohio St.3d 350, 673 N.E.2d 1360, 1363 (1997) ("pursuant to the public records doctrine"); and, *Higg-A-Rella, Inc.* v. *County of Essex*, 276

N.J.Super. 183, 647 A.2d 862, 862 (1994) ("Relying on the public records doctrine").

Note the public records at the Secretary of State of the State of Delaware clearly establishing that Michael J. Byorick was at least the executive vice president of Dano Recource Recovery, Inc.:

"CERTIFICATE OF RESTORATION AND
REVIVAL OF
CERTIFICATE OF INCORPORATION
DANO RESOURCE RECOVERY, INC.

It is hereby certified that:

1. The name of the Corporation (hereinafter called the 'Corporation') is Dano Resource Recovery, Inc.

. . .

----------/s/----------

Michael J. Byorick, Exec. Vice Pres.

Attest:

----------/s/----------

Henry Valentino, Secretary"

The evidence that Peter Paul Mitrano did have admitted into evidence related to the fact that Mr. Byorick was at least the executive vice president of Dano Resource Recovery, Inc. was admitted in the seven days window allowed under the Board's Rules after the completion of the hearing stage. This is not the equivalent of granting Peter Paul Mitrano the requested continuance.

Moreover, the Specification of Charges filed by the District of Columbia contain no support or notice for the factual premise that Mr. Byorick (who indorsed the check from Dano) did not have authority to indorse the check for payment of legal fees. See R. ex. 26, a letter from Mr. Byorick to the District of Columbia dated April 13, 1983, which dealt with important issues and proposals made by Mr. Byorick on behalf of Dano before Government of the District of Columbia Contract Appeals Board which stated:

> "Please be assured that Dano will comply with all the terms and conditions of the contract . . .
>
> Sincerely,
> **Michael J. Byorick**
> **Executive Vice President"**
>
> (Bold emphasis added.)

Also see R. ex. 27, from Mr. Byorick to the District of Columbia dated June 9, 1983 stating:

> "Further, in view of the fact that there is a dispute under the terms and conditions of the contract and said dispute has been appealed in accordance with the contract, we hereby advise you that no action may be taken with our material without prior approval . . .
>
> Sincerely,
> **Michael J. Byorick**
> **Executive Vice President"**
>
> (Bold emphasis added.)

Also see R. ex. 28, from Mr. Byorick to the District of Columbia dated May 6, 1983 stating:

> "The Honorable Marion Barry . .
> . . . .
> This is further to my letter of May 2, 1983, concerning the Dano project . . .
> Sincerely,
> **Michael J. Byorick**
> **Executive Vice President"**
> (Bold emphasis added.)

Also see R. ex. 29, from Mr. Byorick to the District of Columbia dated May 2, 1983 stating:

> "The Honorable Marion Barry . . .
> . . .
> I understand you have discussed at great length with your staff the current Dano operations at Blue Plains. My telegram to you, dated April 24, 1983, summarized the Dano position at that time . . .
> Sincerely,
> **Michael J. Byorick**
> **Executive Vice President"**
> (Bold emphasis added.)

Also see R. ex. 30, from Mr. Byorick to the District of Columbia dated April 21, 1983 stating:

> "Attached is a specific plan of action which we believe will resolve the major

concerns listed in your referenced letter . . .

Sincerely,
Michael J. Byorick
Executive Vice President"

(Bold emphasis added.)

Also see R. ex. 31, from Mr. Byorick to the District of Columbia dated April 21, 1983 stating:

"As you know, in addition to the 'float' time, which varies from 35 to 50 days depending on the invoice, and during which billing accrues to approximately $100,000 . . .

Sincerely,
Michael J. Byorick
Executive Vice President"

(Bold emphasis added.)

Also see R. ex. 32, from the District of Columbia to Mr. Byorick dated March 28, 1983 stating:

"Mr. Michael J. Byorick
Executive Vice President
Dano Resource Recovery, Inc.

. . .

This in response to your letter of March 25, 1983 in which you raised several issues regarding the Dano operation and the implementation of your contract . . . ." (Bold emphasis added.)

Also see R. ex. 33, from Mr. Byorick to the District of Columbia dated March 25, 1983 stating:

> "In order to avoid compounding the current problem, we ask the District to insure that the sludge we receive is at the required 80% moisture content . . .
>
> Sincerely,
>
> **Michael J. Byorick**
>
> **Executive Vice President"**

(Bold emphasis added.)

Also see R. ex. 34, from the District of Columbia to Mr. Byorick dated April 11, 1983 stating:

> **"Mr. Michael J. Byorick**
> **Executive Vice President**
> Dano Resource Recovery, Inc. . . .
>
> This is in response to your letter of April 4, 1983 requesting that I rescind my decision to withhold payment of Dano invoices . . . ." (Bold emphasis added.)

Also see R. ex. 35, from Mr. Byorick to the District of Columbia dated Nov. 19, 1982 stating:

> "We would appreciate your approval of the demonstration and concurrent notice to proceed with phase II of our contract.
>
> Sincerely,
>
> Michael J. Byorick
>
> Executive Vice President"

Also see R. ex. 36, from the District of Columbia to Mr. Byorick dated Nov. 23, 1982 stating:

> **"Mr. Michael J. Byorick**
> **Executive Vice President**
> Dano . . .
> This is in response to two your letters of November 18, and 19, 1982 . . . ."
> (Bold emphasis added.)

Also see R. ex. 37, from Mr. Byorick to the District of Columbia dated Nov. 18, 1982 stating:

> ". . . Consequently we propose not to take any sludge that day. We would operate the plant on an 'overnight' schedule . . .
> Sincerely,
> **Michael J. Byorick**
> **Executive Vice President"**
> (Bold emphasis added.)

Also see R. ex. 39, from Mr. Byorick to the District of Columbia dated April 12, 1983 stating:

> "This is a follow-up to our conversation of April 11, 1983 . . .
> Sincerely,
> **Michael J. Byorick**
> **Executive Vice President"**
> (Bold emphasis added.)

The above documentary evidence proves Mr. Byorick was at least the executive vice president of Dano. Contrary to the above documentary evidence, Mr. Frank E. Williams, Jr. falsely testified:

> "A Mr. Byorick had run into some problems personally--some health problems, some financial problems, some martial problems, a number of issues--and **he, when I took over as president of Dano, gave up all of his responsibilities at Dano** and actually became an employee at the job site working on the project. So he was not involved in management at all. He was just an employee. I think he was like an assistant superintendent at the job site." (Tr. 101 of June 5) (Bold emphasis added.)

Also note that Mr. Frank E. Williams, Jr. further falsely testified that:

> "Q Was he [Michael J. Byorick] ever executive vice president of Dano?
> A Not to my knowledge.
> Q Would you have known if he were executive vice president of Dano?
> A I would." (Tr. 116 of June 5)

Also note that Mr. Frank E. Williams, Jr. further falsely testified that:

"A . . . By then [1983] I had replaced Mr. Byorick as president of Dano, so he just signed as Dano representative.

Q Was he an officer at that time?

A No, he wasn't." (Tr. 99 of June 5)

Instead of recognizing the above-quoted perjury committed by Mr. Frank E. Williams, Jr. in view of the above-cited overwhelming documentary evidence, the Board utilizes the perjured testimony of Mr. Frank E. Williams, Jr. as a vehicle to attempt to disbar petitioner Mitrano. Petitioner Mitrano is simply astounded by the lack of justice. This bill collection scheme filed by Williams Industries, Inc. does not belong in the disciplinary arena. At 952 A.2d at 919 of the Board's report, it is stated:

". . . It was Williams Industries and Frank E. Williams, III in his capacity as president of Williams Industries, Inc. that filed the complaint against Respondent. Dano has not filed such a complaint . . . ."

Thus, because petitioner Mitrano's client, Dano Resource Recovery, Inc. did not file a bar complaint against petitioner Mitrano, this matter should not have proceeded. "To allow an authorized surrogate to champion the rights of the former client would allow that surrogate to use the conflict rules for his own purposes where a genuine conflict might not really exist."

In re Yarn Processing Patent Validity Litigation, 530 F.2d 83, 90 (5th Cir. 1976). In *Ware's Administrator* v. *Russell*, 70 Ala. 174, 179 (1881), the court stated in reference to a contract for attorney's fees that had been modified during the existence of the attorney-client relationship:

> ". . . The infirmity of the contract in this respect renders it only voidable at the election of the client. If he acquiesces, strangers to the contract have no right or cause to complain. If the assignment could be regarded as a contract of this character, the client has made no complaint of it, and it must be treated in this controversy as if it had been made between parties not sustaining any relation of confidence . . . . ."

Also see *Bolte* v. *Rainville*, 138 N.J.Eq. 508, 48 A.2d 191, 196 (1946) (stating the same above-quoted rule "is invocable only by the client against whom enforcement of the stipulation is sought.").

Chair Hertz recognized at the underlying hearing "if it's true that Mr. Byorick signed this [check], and he had authority" that Mitrano was "arguably . . . entitled to it". (Tr. 641-642 of June 6) Mr. Byorick testified as the corporate designee of Dano in a deposition in April 1986:

> "A I told the assistant of mine to take the records to William's office.

Q Who was the assistant?

A Ron Hoffman. (R. ex. 20A, Tr. 8 of deposition Mr. Byorick as corporate designee of Dano of April 24, 1986)

. . .

A We at Dano, officers of Dano, gave up 50 percent of Dano, 50 percent of this contract, and in doing it went into a joint venture with the Williams Group, I'll call it, which for that 50 percent he was supposed to do all of the financing.

Q When you say the officers of Dano, who do you mean?

A I mean myself, Mr. Valentino, Mr. Metcalfe, and the rest of the stockholders, I should say. (R. ex. 20A, Tr. 19) . . .

Mr. Byorick also testified under oath before the Government of the District of Columbia Contracts Appeals Board on February 7, 1989, that he was the Vice President of Dano:

"Q Are you [Michael J. Byorick] an officer of Dano Resource Recovery, Inc.?

A [By Michael J. Byorick] Yes, **I'm vice president**. (Respondent's exhibit 20E, Tr. 9073 of hearing before the Government of the District of Columbia Contracts Appeals Board **on February 7, 1989**) (Bold emphasis added.)

Note that Judge Terner of the District of Columbia Contracts Appeals Board recognized that Michael J. Byorick "sat here at the table

with counsel for the Appellant for days upon days". (Respondent's exhibit 20E, Tr. 9096) Note that Michael J. Byorick also testified that "Frank Williams was one for the Group, Williams Group, and I [Michael J. Byorick] was representing the Dano group. (Respondent's ex. 20F, Tr. 9164) Again, the Board failed to explain why it did not give credit to the above-stated evidence. See *Ingersoll-Rand Financial Corp.* v. *Anderson*, 921 F.2d 497, 499 (3rd Cir. 1990) ("We have held that 'interpretation of a writing is generally a question of law for the court.' *Barco Urban Renewal Corp.* v. *Housing Authority* . . . .")

Note that Daniel Keith Maller, Esquire incorrectly testified:

> "Q At the time that **Mr. Byorick signed the retainer agreement, at page 4, its dated September 6, 1983**, he signs as 'Dano representative.' Do you know whether he was an officer at Dano at that time? (Bold emphasis added.)
>
> A No.
>
> Q No, you don't know or no he wasn't an officer?
>
> A I'm sorry. My answer is no. My understanding is he was not an officer.
>
> Q And do you know whether Mr. Byorick was an officer at Dano any time thereafter?
>
> A Yes—well, my understanding from the files is that he was not.
>
> Q Did you know Mr. Byorick?

A No, never met him" (Tr. 323 of June 5)

Daniel Keith Maller, Esquire also testified at Tr. 328-329 (of June 5, 2006) that:

"A He [Mr. Byorick] was not an officer of the company. Had no further involvement **subsequent to the Dano project being shut down in 1983**, other than, as I said, as a witness in the litigation. He was a paid employee at the time that the events actually took place and Mr. Williams was the president and **any actions or activities that took place subsequent to 1983** were managed by Mr. Williams and all of us reported to him. All of those of us who were still working on the project. The project meaning the litigation.

Q Did that also include the Respondent, Mr. Mitrano?

A It did.

Q To your knowledge, the Respondent have any basis to believe that Mr. Byorick could make contracts or settlements on behalf of Dano based on his sole signature?

A No.

Q Why do you say that Respondent had no basis to believe that?

A From my observation, first of all, Mr. Williams is an easy boss to work for because you know who the boss is. And, secondly, **I'm very familiar with the**

> **corporate organization within** Williams Industries and including **Dano Resource Recovery and there were no transactions or corporate changes made subsequent to that point.** (Bold emphasis added.)

Thus, based upon the above-quoted testimony of Mr. Maller there were no "**corporate changes**" within "**the corporate organization**" of "**Dano Resource Recovery**" made after "**1983**". Clearly, although Mr. Maller was incorrect in testifying that Mr. Byorick was not an officer of Dano in 1983 based upon the overwhelming documentary evidence cited above, Bar Counsel is bound by his undisputed testimony there were no "**corporate changes**" within "**the corporate organization**" of "**Dano Resource Recovery**" made after "**1983**". Accordingly, because the record is now clear that Mr. Byorick was the executive vice president and sometimes referred to as the vice president after 1983 until at least February 7, 1989, the date when Mr. Byorick testified under oath before the Government of the District of Columbia Contracts Appeals Board (R. ex. 20E, Tr. 9073) that he was an officer of Dano and the vice president of Dano, Bar Counsel based upon the testimony of Mr. Maller must accept that it own witness maintains that there were no "**corporate changes**" within "**the corporate organization**" of "**Dano Resource Recovery**" made after "**1983**". Also see *State ex rel. State Highway Commission* v. *Kemper*, 542 S.W.2d 798, 804 (Mo. 1976) (Bar Counsel "is bound by

his own evidence whether adduced on direct examination or on cross-examination"). Mitrano contends this Court should correct the findings that Mr. Byorick did not have authority to indorse the check. Mr. Maller also testified:

> "Q When was the last board of director meeting related to Dano Resource Recovery, Inc.?
>
> A Before the time that I started, to my knowledge—before 1988." (Tr. 357 of June 5)

In view of the overwhelming evidence (which is at least substantial), it is absolutely astounding, not to mention completely unjust, for the Board to state that Mr. Byorick was not at least the executive vice president of Dano when Mr. Byorick indorsed the subject check in view of the evidence presented to the Board.

Another example of Ms. Tait of the District of Columbia Bar Counsel making a false statement under oath is on page 6 (¶ 21) of the Specification of Charges wherein Ms. Tait states:

> "21. Mr. Williams, in his capacity, inter alia, as Dano's president, inquired periodically of Respondent . . . until June 1998 regarding . . . the whereabouts of the proceeds of the judgment . . . ."

Note that Mr. Frank E. Williams, Jr. testified contrary to Assistant Bar Counsel Tait's statement:

> "Q When was the last time you spoke to Peter Mitrano, other than today?
>
> A I don't recall. It's been a number of years.
>
> Q When was the last time you attempted to reach Peter Mitrano, to the best of your recollection?
>
> A **I don't know that I have attempted to reach Peter Mitrano."** (Bold emphasis added.) (Tr. 139 of June 5)

Also note that on page 44 of the District of Columbia Court of Appeals' decision dated July 17, 2008, the District of Columbia Court of Appeals found that "inquiries to Respondent about the check had been made by neither Mr. Williams directly nor Dano, Respondent's client".

Petitioner Mitrano contends that the District of Columbia Court of Appeals violated his rights to due process by not taking appropriate action against Bar Counsel for making the false factual charge of forgery against petitioner.

The District of Columbia also failed to provide petitioner Mitrano adequate notice of the factual basis of the charges despite this Court making clear in the case of *In re Ruffalo*, 390 U.S. 544, 550-551 (1968) that petitioner

Mitrano was entitled to know the charges prior to the hearing:

> ". . . He is accordingly entitled to procedural due process, which includes fair notice of the charge . . . Therefore, one of the conditions this Court considers in determining whether disbarment by a State should be followed by disbarment here is whether 'the state procedure from want of notice or opportunity to be heard was wanting in due process.' *Selling* v. *Radford*, 243 U.S. 46, 51, 37 S.Ct. 377, 379, 61 L.Ed. 585.
>
> . . .
>
> "These are adversary proceedings of a quasi-criminal nature. Cf. *In re Gault*, 387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527. The charge must be known before the proceedings commence . . .
>
> . . .
>
> "This absence of fair notice as to the reach of the grievance procedure **and the precise nature of the charges deprived petitioner of procedural due process**." (Citations omitted.) (Bold emphasis added.)

Also note *Hamdi* v. *Rumsfeld*, 542 U.S. 507, 533 (2004) ("'Parties whose rights are to be affected are entitled to be heard; and in order

that they may enjoy that right they must first be notified.'").

Moreover, in the instant case, the District of Columbia did not include the correct factual basis of the discipline in the Specification of Charges. In *Zauderer* v. *Office of Disciplinary Counsel of Supreme Court of Ohio*, 471 U.S. 626, 671-673 (1985) it is appropriately stated in a dissenting opinion that:

> ". . . The question before the Court, however, is not one of prediction but one of process. 'A person's right to reasonable notice of a charge against him, and an opportunity to be heard in his defense--a right to his day in court--are basic in our system of jurisprudence.' *In re Oliver*, 333 U.S. 257, 273, 68 S.Ct. 499, 507, 92 L.Ed. 682 (1948). Under the Due Process Clause, 'reasonable notice' must include disclosure of 'the specific issues [the party] must meet,' *In re Gault*, 387 U.S. 1, 33-34, 87 S.Ct. 1428, 1446-1447, 18 L.Ed.2d 527 (1967) (emphasis added), **and appraisal of 'the factual material on which the agency relies for decision** so that he may rebut it.' *Bowman Transportation, Inc.* v. *Arkansas-Best Freight System, Inc.*, 419 U.S. 281, 288, n. 4, 95 S.Ct. 438, 443 n. 4, 42 L.Ed.2d 447 (1974). These guarantees apply fully to attorney disciplinary proceedings because, obviously, 'lawyers also enjoy first-class

citizenship.' *Spevack* v. *Klein*, 385 U.S. 511, 516, 87 S.Ct. 625, 628, 17 L.Ed.2d 574 (1967). Where there is an 'absence of fair notice as to the reach of the grievance procedure and the precise nature of the charges,' so that the attorney is not given a meaningful opportunity to present evidence in his defense, the proceedings violate due process. *In re Ruffalo*, 390 U.S., at 552, 88 S.Ct., at 1226 (emphasis added). (Footnote omitted.)

"The Court acknowledges these guarantees, but argues that the Board's change of theories after the close of evidence was 'of little moment' because Zauderer had an opportunity to object to the Board's certified report before the Supreme Court of Ohio. Ante, at 2283. This reasoning is untenable. Although the Supreme Court of Ohio made the ultimate determination concerning discipline, it held no de novo hearing and afforded Zauderer no opportunity to present evidence opposing the Board's surprise exercise of judicial notice. Under Ohio procedure, the court's role was instead limited to a record review of the Board's certified findings to determine whether they were 'against the weight of the evidence' or made in violation of legal and procedural guarantees. *Cincinnati Bar Assn.* v. *Fennell*, 63 Ohio St.2d 113, 119, 406 N.E.2d 1129, 1133 (1980). (Footnote

> omitted.) All that Zauderer could do was to argue that the Board's report was grounded on a theory that he had never been notified of and that he never had an opportunity to challenge with evidence of his own, and to request that proper procedures be followed. (Footnote omitted.)
>
> "The court completely ignored these objections. (Footnote omitted.) To hold that this sort of procedure constituted a meaningful 'chance to be heard in a trial of the issues,' *Cole* v. *Arkansas*, 333 U.S. 196, 201, 68 S.Ct. 514, 517, 92 L.Ed. 644 (1948), **is to make a mockery of the due process of law that is guaranteed every citizen accused of wrongdoing**." (Bold emphasis added.)

In the above-quoted words of Justice Brennan, with whom Justice Marshall joined, concurring in part, concurring in the judgment in part, and dissenting in part from the majority decision in *Zauderer* v. *Office of Disciplinary Counsel of Supreme Court of Ohio*, 471 U.S. 626 (1985), petitioner Mitrano likewise contends that the fact that the Specification of Charges in the instant matter failed to advise petitioner Mitrano of "the factual material on which the [District of Columbia] . . . relies for decision" and in fact misrepresented the alleged forgery charge is another example of an attorney [petitioner Mitrano] being denied "due process of law that is guaranteed every citizen accused

of wrongdoing." Note that in the instant case, the District of Columbia kept changing the "factual material" utilized for the recommendations and the decision. Despite petitioner Mitrano's requests for a continuance during the hearing stage of this matter to address the new factual matters raised by District of Columbia Bar Counsel for the first time during the hearing stage, Mitrano was denied "due process of law that is guaranteed every citizen accused of wrongdoing".

The majority opinion *Zauderer* v. *Office of Disciplinary Counsel of Supreme Court of Ohio*, 471 U.S. 626, 654 n. 17 (1985) addressed the issue of the complaint not giving notice of the factual basis of the discipline and ruled that because the matter in issue was subject to the doctrine of judicial notice that was no denial of due process; this Court stated:

> "Appellant suggests that he was prejudiced by his inability to present evidence relating to the Board's factual conclusion that it was a common practice for persons charged with drunken driving to plead guilty to lesser offenses. **If this were in fact the case, appellant's due process objection might be more forceful.** But appellant does not--and probably cannot--seriously dispute that guilty pleas to lesser offenses are common in drunken driving cases, nor does he argue that he was precluded from arguing before the Ohio Supreme Court that it was

> improper for the Board of Commissioners to take judicial notice of the prevalence of such pleas . . . ." (Bold emphasis added.)

In the instant case, petitioner Mitrano was in fact denied due process because petitioner was not given the opportunity to present evidence and testimony concerning the factual allegations that were presented at the hearing but were not contained in the specification of charges. Moreover, it appears that there are some similarities between the disciplinary process in the *Zauderer* case and the District of Columbia.

Also note with reference to District of Columbia Bar Counsel falsely accusing Peter Paul Mitrano of committing forgery, it was stated in *Gray* v. *Netherland*, 518 U.S. 152, 164, 167-168 (1996), rehearing denied 518 U.S. 1047, that:

> "Yet another way in which the state may unconstitutionally . . . deprive [a defendant] of a meaningful opportunity to address the issues, is simply by misinforming him.'
>
> . . .
>
> "A defendant's right to notice of the charges against which he must defend is well established. *In re Ruffalo*, 390 U.S. 544 . . . (1968) . . . ." (Citation omitted.)

Hence, by the District of Columbia Bar Counsel falsely accusing petitioner Mitrano of forgery, petitioner was misinformed of the factual basis of the charges against petitioner. Note the words of the District of Columbia Court of Appeals in respond to petitioner's lack of due process claims:

> "We deal, lastly, with Mitrano's claim that Bar Counsel leveled an unsupported charge of forgery against him, which (besides unfairly stigmatizing him) had the effect of misleading him in the preparation of his defense to the charges ultimately proven . . .
>
> "For the reasons discussed by the Board, Mitrano's claim that the single-sentence assertion in the Specification that he had personally endorsed the check in another's name caused him to overlook – or under-prepare to meet – the other serious charges including theft and intentional misappropriation is utterly without merit . . . ."

Note on pages 122-123 of Mitrano Exceptions filed before the District of Columbia Court of Appeals on July 30, 2007, petitioner Mitrano objected to the "lack of due process and the unequal justice provided by the Board and the Hearing Committee".

Even in a case raised sua sponte by the District of Columbia Court of Appeals, *Morissette* v. *United States*, 342 U.S. 246, 259 (1952), this Court stated: "We think presumptive intent has no place in this case . .

. this presumption would conflict with the overriding presumption of innocence". Also see *United States* v. *United States Gypsum Co.*, 438 U.S. 422, 437 (1978) ("intent generally remains an indispensable element of a criminal offense"); *Norwood* v. *Harrison*, 413 U.S. 455, 471 (1973) ("No presumptions flow from mere allegations; no one can be required, consistent with due process, to prove the absence of violation of law."); *Cleveland Bd. of Educ.* v. *Loudermill*, 470 U.S. 532, 543 (1985) ("We have frequently recognized the severity of depriving a person of the means of livelihood."); *C.I.R.* v. *Shapiro*, 424 U.S. 614, 629 n. 11 (1976) ("temporary deprivation of wages may 'drive a wage-earning family to the wall'");. *Matter of Kenney*, 393 Mass. 431, 504 N.E.2d 652, 655 (1987) (Mitrano has a constitutionally protected interest in his license to practice law.); *Morrissey* v. *Brewer*, 408 U.S. 471, 481 (1972) ("Once it is determined that due process applies, the question remains what process is due."); *Goldberg* v. *Kelly*, 397 U.S. 254, 270 (1970) ("[T]the evidence used to prove the Government's case must be disclosed to the individual so that he has an opportunity to show that it is untrue."); *In re Medrano*, 956 F.2d 101, 102 (5th Cir. 1992) ("The notice of the allegations and the disbarment proceeding must satisfy the requirements of procedural due process."); *Santosky* v. *Kramer*, 455 U.S. 745, 755 (1982) ("The 'minimum requirements [of procedural due process] being a matter of federal law, they are not diminished by the fact that the State may have specified its own

procedures'".); *Thompson* v. *City of Louisville*, 362 U.S. 199, 206 (1960) ("Conviction upon a charge not made would be sheer denial of due process.") *Heckler* v. *Campbell*, 461 U.S. 458, 471 n. 1 (1983) ("Inherent in the concept of a due process hearing is the decisionmaker's obligation to inform himself about facts relevant to his decision and to learn the claimant's own version of those facts."); and, *Troxel* v. *Granville*, 530 U.S. 57, 65-66 (2000).

Nevertheless, despite the lack of due process, the District of Columbia Court of Appeals ruled in essence that petitioner Mitrano was a thief.

2. Did Judge Farrell have the authority to participate in the subject decision?

Petitioner Mitrano notes §11-1504(a)(1) of the District of Columbia Official Code (2001) which states in part that "Except as provided under this section, retired judges may not perform judicial duties in District of Columbia courts". As stated petitioner's motion for rehearing, see *Hayden* v. *Liberty Mut. Fire Ins. Co.*, 786 S.W.2d 260, 261 (Tex. 1990) ("Chief Justice Dies resigned from the court effective August 30, 1989 . . . The court of appeals here decided this case on September 28, 1989. . . Chief Justice Dies no longer had the authority to participate in the decision"). Because the instant decision was decided on July 17, 2008 and because Judge Farrell had already retired on July 1, 2008, Judge Farrell "no longer had the authority to participate in the decision".

3. Do the actions and inactions of the District of Columbia related to this matter justify a revolution?

Note that on April 19, 1775, over 233 years ago, our forefathers began a revolution against the King of Great Britain in order to protect the rights and liberties of the present citizens of the United States of America. With all due respect to this Supreme Court of the United States, have we now come full circle wherein the revolution fought so bravely by our forefathers was for naught in that we are now exposed to the tyranny that our forefathers gave up their lives to stop? Pure and simple, this is a classic case of pettifoggery practiced by District of Columbia Bar Counsel and sadly (with all due respect) condoned by the District of Columbia Court of Appeals.

Petitioner, Peter Paul Mitrano, respectfully and humbly requests that this Supreme Court of the United States rule whether the actions and inactions of the District of Columbia justify another revolution. See *In re Anastaplo*, 366 U.S. 82, 112 (1961) ("the men who founded this country and wrote our Bill of Rights were strangers neither to a belief in the 'right of revolution' nor to the urgency of the need to be free from the control of government") (dissent); *American Communications Ass'n, C.I.O.* v. *Douds*, 339 U.S. 382, 439 (1950) ("we cannot ignore the fact that our own Government originated in revolution and is legitimate only if overthrow by force may sometimes be justified") (dissent).

In the instant action, the District of Columbia has taken away petitioner's right to work as a lawyer. Petitioner Mitrano contends that he has been subjected to the tyranny of the District of Columbia for too long. Enough is enough. See *In re Ford Motor Co. Erisa Litigation*, (No. 06-11718) __ F.Supp.2d __, 2008 WL 5377955 *26 (E.D. Mich. December 22, 2008) ("'what was the cause of the American Revolution' . . . 'one damned thing after another.'"). It is time for a meaningful change. Whether by design or otherwise, Petitioner Mitrano has been denied justice and due process. Note the words in the dissent of *Stump* v. *Sparkman*, 435 U.S. 349, 367 (1978) "A judge is not free, like a loose cannon, to inflict indiscriminate damage whenever he announces that he is acting in his judicial capacity."

Conclusion

For these reasons, a writ of certiorari should issue to review the judgment of the District of Columbia Court of Appeals.

Respectfully submitted,

Peter Paul Mitrano
Pro se[1]
4912 Oakcrest Drive
Fairfax, Virginia 22030
Petitioner

Dated: January 12, 2009.

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1. The petitioner, Peter Paul Mitrano, is a member of the Bar of this Court and other courts.

APPENDIX

FILED
OCT 14 2008
DISTRICT OF COLUMBIA
COURT OF APPEALS

DISTRICT of COLUMBIA
COURT of APPEALS

No. 07-BG-656

IN RE: PETER PAUL MITRANO,
Respondent.
Bar Registration No. 410441 BDN: 251-01

BEFORE: Washington, Chief Judge; Ruiz, Reid, Glickman, *Kramer, *Fisher, Blackburne-Rigsby, and *Thompson, Associate Judges; and Farrell, Associate Judge-Retired.

O R D E R

On consideration of respondent's petition for rehearing or rehearing en banc, it is

ORDERED by the merits division* that the petition for rehearing is denied; and it appearing that no judge of this court has called for a vote on the petition for rehearing en banc, it is

FURTHER ORDERED that the petition for rehearing en banc is denied.

PER CURIAM.

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Chair
Board on Professional Responsibility

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